

Somalia



LGBTQ+ Rights

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Summary: Somalia criminalizes private consensual same-sex sexual activity between adults, leaving sexual and gender minorities at serious risk of harm. LGBTQ+ individuals face cultural exclusion, threats, violence, and may face the death penalty in parts of Somalia and Somaliland. So-called “conversion therapies” persist, inflicting physical and psychological violence on LGBTQ+ individuals. Human rights defenders working on LGBTQ+ rights fear reprisals and experience abuses and intimidation.

Somalia criminalizes consensual same-sex sexual activity between adults.

- Criminalization of consensual same-sex sexual activity applies to both adult men and women, and the Penal Code imposes a maximum penalty of three years imprisonment for engaging in such activity.
- In addition to the Penal Code, all same-sex sexual activity (consensual and non-consensual) is forbidden under Sharia law with a maximum penalty of death. All State laws must comply with Sharia law.
- Although the Penal Code does not authorize the use of the death penalty for consensual same-sex sexual activity between adults, an estimated 80% to 90% of legal cases are decided through Sharia and/or customary legal systems, not under State law.
- In the northern region of the country, the politically unrecognized area Somaliland, the Islamist militias who are the *de facto* authorities enforce the death penalty without Government intervention.
- Both the Government of Somalia and the *de facto* authorities in Somaliland imprison a significant number of LGBTQ+ adults for allegedly engaging in consensual same-sex sexual activity.

LGBTQ+ individuals in Somalia experience violence and discrimination by State and non-State actors, including so-called “conversion therapies.”

- The absence of any legal protection against discrimination enables systemic abuse and exclusion of LGBTQ+ people and those defending their rights.
- Somalia has no laws against so-called “conversion therapies” or any similar practices that purport to forcibly change an individual’s sexual orientation, gender identity, and/or gender expression. There are numerous “rehabilitation centers” to which families send relatives they know or believe to be LGBTQ+. These centers inflict physical and psychological violence on those who are sent there.
- State and non-State actors regularly subject LGBTQ+ people to harassment and sexual and physical violence, which these LGBTQ+ people rarely report to police due to fear of retaliation, imprisonment, or death. Due to

lack of reporting, it is difficult to determine the full extent of violence and discrimination committed against LGBTQ+ people.

- Additionally, since Somalia's last UPR, local militias have continued to inflict violence upon and enforce the death penalty against LGBTQ+ individuals with impunity.

Human rights defenders working on the human rights of LGBTQ+ people experience abuses and intimidation.

- A confidential source that fears reprisals for working on the human rights of LGBTQ+ people in Somalia reports an increase in abuses directed at human rights defenders (HRDs), such as raids on their homes by unidentified armed assailants, surveillance by clan elders and informal security actors, arrests without formal charges, and forced evictions coupled with broader social exclusion.
- HRDs working with LGBTQ+ populations experience severe psychological trauma and legal intimidation. Many of these individuals cannot access safe legal representation or trauma services due to stigma and institutional neglect.
- HRDs working on all issues often risk their lives, safety, and privacy to do their work.
- Impunity remains one of the main drivers of ongoing violations and has had a severe chilling effect on civic space.

Recommendations

- Repeal Penal Code Articles 409 and 410, which criminalize consensual same-sex sexual activity.
- Immediately release all individuals detained solely on the basis of consensual same-sex sexual activity between adults.
- Draft and adopt legislation banning the use of so-called "conversion therapy" or similar practices.
- Enact comprehensive anti-discrimination legislation that explicitly prohibits discrimination based on sexual orientation, gender identity, and gender expression.
- End impunity for attacks against journalists, civil society, and human rights defenders, including by conducting timely and impartial investigations, prosecuting perpetrators, and ending military trials of journalists.
- Ensure transparent and effective investigations in cases where HRDs have been harassed or harmed, and adopt a law protecting HRDs in accordance with international standards.
- Take measures to prevent law enforcement from arbitrarily arresting HRDs based on their work protecting and promoting the human rights of LGBTQ+ persons by training the police on comprehensive equality and non-discrimination principles.